IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 23RD NOVEMBER 2006 / 2ND AGRAHAYANA 1928

Crl.MC.No. 3854 of 2006()

CC.595/2006 of JUDL.MAGISTRATE OF FIRST CLASS, KAYAMKULAM

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PETITIONER: A1 TO A3

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1. K.P.SURESH,
   ANITHA BHAVAN, VATHIKULAM MURI,
   THEKKEKKARA VILLAGE.

2. SUSHAMA, W/O. K.P.SURESH,
   -DO- -DO-

3. ANIL ROY, S/O. K.P.SURESH,
   -DO- -DO-

BY ADV. SRI.R.REJI

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
   THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM, REPRESENTED BY
   S.I. OF POLICE, KAYAMKULAM.

2. SUKUMARAN, S/O. NARAYANAN,
   LALITHA BHAVANAM, KOIPPALLI KARAZHMA MURI,
   PERINGALA VILLAGE.

BY P.P. SRI. PUZHAKKARA MUHAMMED.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO.3854 OF 2006

Dated this the 23rd day of November, 2006

ORDER

The petitioners are parents and son against whom a criminal investigation is pending on the basis of a complaint filed by the 2nd respondent herein.

2. Proceedings were initiated by the 2nd respondent by filing a private complaint before the learned Magistrate. The learned Magistrate referred the complaint under Sec.156(3) of the Cr.P.C. Accordingly, Annexure-A4 – F.I.R. has been registered under Sec.420 read with Sec.34 of the IPC. Investigation is in progress.

3. The petitioners have come before this Court with this petition under Sec.482 of the Cr.P.C. to quash the F.I.R. and all further proceedings taken in pursuance of the F.I.R.

4. The crux of the allegations against the petitioners is that they cheated the de facto complainant to part with an amount of Rs.2 lakhs with no intention to assign the property which was agreed to be sold to him. It is the case of the de facto complainant that he had thereby been defrauded by the

petitioners.

5. The learned counsel prays that the investigation may be quashed. The reason alleged is that the allegations raised are false and that the allegations, even if accepted, would reveal only a civil claim. The petitioners do not deserve to be subjected to the trauma of a criminal investigation against them. In fact, the de facto complainant has, subsequent to the filing of the criminal complaint, filed a civil suit claiming return of the amount of Rs.2 lakhs which he is alleged to have been induced to part with.

6. Having considered all the relevant inputs, I am not persuaded to invoke the extraordinary inherent jurisdiction available to this Court under Sec.482 of the Cr.P.C. to quash the F.I.R. I shall carefully avoid expressing any opinion on merits about the acceptability of the allegations raised in the complaint. The police is investigating into the crime. I have no reason to assume that a prompt and proper investigation shall not be conducted or that the petitioners will be subjected to any vexation or unnecessary trauma. The petitioners have not appeared before the learned Magistrate. They have not applied for anticipatory bail so far. To avoid any unnecessary vexation or harassment to the petitioners, I am, in these circumstances,

satisfied that appropriate directions can be issued under Sec.438 of the Cr.P.C. to secure their interests.

7. In the result:

(a) This Crl.M.C. is allowed in part.

(b) The police are directed to conduct the investigation expeditiously.

(c) Directions are issued under Sec.438 of the Cr.P.C. that the petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 29/11/2006. They shall be released on bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate. They shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 30/11/2006 and thereafter as and when directed by the Investigating Officer in writing to do so.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. To Judge